

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1803

Introduced by Assembly Member Nava

February 10, 2010

An act to amend Section 1369.520 of the Civil Code, relating to common interest developments. An act to add Section 798.31.5 to, and to add Article 8.5 (commencing with Section 798.90) to Chapter 2.5 of Title 2 of Part 2 of Division 2 of, the Civil Code, relating to mobilehomes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1803, as amended, Nava. ~~Common interest developments; dispute resolution.~~ *Mobilehome Residency Law Mediation Act.*

The Mobilehome Residency Law governs residency in mobilehome parks and includes provisions that are applicable to those who have an ownership interest in a subdivision, cooperative, or condominium for mobilehomes, or a resident-owned mobilehome park, as specified. Among other things, these provisions set forth the rights of residents and homeowners regarding the use of the property.

This bill would create the Mobilehome Residency Law Mediation Act and would require the Attorney General to administer a mobilehome dispute resolution program. This bill would require the Attorney General to produce and distribute educational materials, collect information about mobilehome communities and make it publicly available, and provide an annual report to the Legislature. This bill would also require the Attorney General to receive complaints, investigate alleged violations at its discretion, and facilitate negotiations, as provided.

This bill would also establish the Mobilehome Residency Law Mediation Fund, for the fees collected by the Attorney General and the Department of Housing and Community Development pursuant to the above provisions. This bill would impose a \$10 assessment on landlords for each mobilehome within the community and a \$250 late fee, as provided.

~~The Davis-Stirling Common Interest Development Act requires a common interest development association, owner, or member to submit their dispute to alternative dispute resolution before filing an enforcement action in superior court, as specified.~~

~~This bill would make a technical, nonsubstantive change to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. (a) It is the intent of the Legislature to provide*
- 2 *an equitable, less costly, and more efficient way for mobilehome*
- 3 *tenants and mobilehome community landlords to resolve disputes.*
- 4 *(b) The Legislature finds that taking legal action against a*
- 5 *mobilehome community landlord for violations of the Mobilehome*
- 6 *Residency Law can be a costly and lengthy process, and that many*
- 7 *people cannot afford to pursue a court process to vindicate*
- 8 *statutory rights. Mobilehome community landlords will also benefit*
- 9 *by having access to a process that resolves disputes quickly and*
- 10 *efficiently.*
- 11 *(c) The Legislature intends to authorize the Department of*
- 12 *Housing and Community Development to modify the registration*
- 13 *and fee collection process for mobilehome communities, in order*
- 14 *to collect the information and revenue necessary for the*
- 15 *administration of the mediation process developed in this article.*
- 16 *(d) The Legislature intends to authorize the Attorney General*
- 17 *to do all of the following:*
- 18 *(1) Produce and distribute educational materials regarding the*
- 19 *Mobilehome Residency Law and the mobilehome dispute resolution*
- 20 *program created in this act.*
- 21 *(2) Administer the mobilehome dispute resolution program by*
- 22 *taking complaints, conducting investigations, making*

1 *determinations, issuing fines and other penalties, and participating*
2 *in administrative dispute resolutions, when necessary.*

3 *(3) Collect and annually report upon data related to disputes*
4 *and violations, and make recommendations on modifying the*
5 *Mobilehome Residency Law Mediation Act, to the appropriate*
6 *committees of the Legislature.*

7 *SEC. 2. Section 798.31.5 is added to the Civil Code, to read:*

8 *798.31.5. (a) There is hereby established in the State Treasury*
9 *the Mobilehome Residency Law Mediation Fund into which funds*
10 *collected by the Department of Housing and Community*
11 *Development pursuant to this section will be deposited, including*
12 *fines and registration fees from sources to fund the mobilehome*
13 *dispute resolution program. Expenditures from the account may*
14 *be used only for the costs associated with administering the*
15 *Mobilehome Residency Law mediation program.*

16 *(b) Each mobilehome community landlord shall pay to the*
17 *department an annual registration assessment of ten dollars*
18 *(\$10.00) for each mobilehome that is subject to the Mobilehome*
19 *Residency Law within a mobilehome community. Mobilehome*
20 *community landlords may charge a maximum of five dollars (\$5.00)*
21 *of this assessment to tenants. The registration assessment for each*
22 *mobilehome shall be deposited to fund the costs associated with*
23 *the Mobilehome Residency Law Mediation Act, including costs*
24 *incurred by the department.*

25 *(c) Initial registrations of mobilehome communities shall be*
26 *filed with the department before November 1, 2011, or within three*
27 *months of the availability of mobilehome lots for rent within the*
28 *community. The mobilehome community is subject to a delinquency*
29 *fee of two hundred fifty dollars (\$250) for late initial registrations.*

30 *(d) Thirty days after sending late fee notices to a noncomplying*
31 *landlord, the department may refer the past due account to a*
32 *collection agency. If there is no response from a noncomplying*
33 *landlord after 60 days in collections, the department may file an*
34 *action to enforce payment of unpaid registration assessments and*
35 *late fees in the superior court in the county in which the*
36 *mobilehome community is located. If the department prevails, the*
37 *mobilehome community landlord shall pay the department's costs,*
38 *including reasonable attorney's fees, for the enforcement*
39 *proceedings.*

1 (e) Registration is effective on the date determined by the
2 department, and the department shall issue a registration number
3 to each registered mobilehome community. The department shall
4 provide an expiration date, assigned by the department, to each
5 mobilehome community that registers.

6 SEC. 3. Article 8.5 (commencing with Section 798.90) is added
7 to Chapter 2.5 of Title 2 of Part 2 of Division 2 of the Civil Code,
8 to read:

9
10 Article 8.5. Mobilehome Residency Law Mediation Act

11
12 798.90. This article shall be known and may be cited as the
13 “Mobilehome Residency Law Mediation Act.”

14 798.90.5. For purposes of this article the following terms are
15 defined as follows:

16 (a) “Complainant” means a landlord, community owner, or
17 tenant, who has a complaint alleging a violation of this article.

18 (b) “Department” means the Department of Housing and
19 Community Development.

20 (c) “Homeowner” has the same meaning as in Section 789.9.

21 (d) “Landlord” or “community owner” means the owner of a
22 mobilehome park or a manufactured housing community and
23 includes agents of the landlord or community owner.

24 (e) “Mobilehome” has the same meaning as in Section 798.3.

25 (f) “Mobilehome dispute resolution program” means the
26 provision of this act.

27 (g) “Mobilehome lot” means a portion of a mobilehome
28 community designated as the location of one mobilehome,
29 manufactured home, or park model and its accessory buildings,
30 and intended for the exclusive use as a primary residence by the
31 occupants of that mobilehome, manufactured home, or park model.

32 (h) “Mobilehome park,” “manufactured housing community,”
33 or “mobilehome community” has the same meaning as in Section
34 798.4.

35 (i) “Respondent” means a landlord, community owner, or
36 tenant, alleged to have committed a violation of the Mobilehome
37 Residency Law.

38 798.91. (a) Upon collection of fees specified in Section
39 798.31.5, the Attorney General shall begin administration of the
40 mobilehome dispute resolution program.

1 ***(b) The purpose of the mobilehome dispute resolution program***
2 ***is to provide mobilehome community landlords and tenants with***
3 ***a cost-effective and time-efficient process to resolve disputes***
4 ***regarding alleged violations of the Mobilehome Residency Law.***

5 ***(c) The Attorney General under the mobilehome dispute***
6 ***resolution program shall do all of the following:***

7 ***(1) Produce educational materials regarding the Mobilehome***
8 ***Residency Law and the mobilehome dispute resolution program,***
9 ***including a notice in a format a landlord can reasonably post in***
10 ***a mobilehome community that summarizes tenant rights and***
11 ***responsibilities, including information on how to file a complaint***
12 ***with the Attorney General, and a toll-free telephone number and***
13 ***Internet Web site address that landlords and homeowners can use***
14 ***to seek additional information and communicate complaints.***

15 ***(2) Distribute or delegate distribution to the department or the***
16 ***mobilehome ombudsman, of the educational materials described***
17 ***in paragraph (1) to all known landlords and distribute information***
18 ***alerting landlords that:***

19 ***(A) Notwithstanding items already required to be posted,***
20 ***landlords shall post the notice provided by the Attorney General***
21 ***that summarizes tenant rights and responsibilities and includes***
22 ***information on how to file complaints in the park clubhouse or in***
23 ***another conspicuous area within the mobilehome park.***

24 ***(B) The Attorney General may visually confirm that the notice***
25 ***is appropriately posted.***

26 ***(C) The Attorney General may issue a fine or other penalty if***
27 ***the Attorney General discovers that the landlord has not***
28 ***appropriately posted the notice or that the landlord has not***
29 ***maintained the posted notice so that it is clearly visible to tenants.***

30 ***(3) Distribute the educational materials described in paragraph***
31 ***(1) to any complainants and respondents, as requested.***

32 ***(4) Perform dispute resolution activities, including***
33 ***investigations, negotiations, determinations of violations, and***
34 ***imposition of fines or other penalties pursuant to Section 798.92.***

35 ***(5) Collect at a minimum the following information about***
36 ***mobilehome communities and make them available on a publicly***
37 ***searchable Internet database:***

38 ***(A) The number of complaints where a violation was***
39 ***substantiated.***

40 ***(B) The nature and extent of the complaints received.***

1 (C) *The violation of law complained about.*

2 (D) *The mobilehome dispute resolution program outcomes for*
3 *each complaint.*

4 (6) (A) *Provide an annual report to the appropriate committees*
5 *of the Legislature on the data collected under this section,*
6 *including program performance measures and recommendations*
7 *regarding how the mobilehome dispute resolution program may*
8 *be improved, by January 1 of each year, beginning January 1,*
9 *2012.*

10 (B) (1) *The requirement for submitting a report imposed under*
11 *this paragraph is inoperative on January 1, 2016, pursuant to*
12 *Section 10231.5 of the Government Code.*

13 (2) *A report to be submitted pursuant to this paragraph shall*
14 *be submitted in compliance with Section 9795 of the Government*
15 *Code.*

16 (d) *The mobilehome dispute resolution program, including all*
17 *of the duties of the Attorney General under the program as*
18 *described in this section, shall be funded by the collection of fines,*
19 *other penalties, and fees deposited into the Mobilehome Residency*
20 *Law Mediation Fund created in Section 798.31.5, and all other*
21 *sources directed to the mobilehome dispute resolution program.*

22 798.92. (a) *An aggrieved party has the right to file a complaint*
23 *with the Attorney General alleging a violation of Mobilehome*
24 *Residency Law.*

25 (b) *Upon receiving a complaint under this act, the Attorney*
26 *General shall do both of the following:*

27 (1) *Inform the complainant of any notification requirements*
28 *under the Mobilehome Residency Law for tenant or landlord*
29 *violations and encourage the complainant to appropriately notify*
30 *the respondent of the complaint.*

31 (2) *If a statutory time period is applicable, inform the*
32 *complainant of the time frame that the respondent has to remedy*
33 *the complaint under the Mobilehome Residency Law for tenant*
34 *violations or landlord violations.*

35 (c) *After receiving a complaint under this act, the Attorney*
36 *General shall initiate the mobilehome dispute resolution program*
37 *by investigating the alleged violations at its discretion and, if*
38 *appropriate, facilitating negotiations between the complainant*
39 *and the respondent.*

1 (d) (1) *Complainants and respondents shall cooperate with the*
2 *Attorney General in the course of an investigation by:*

3 (A) *Responding to subpoenas issued by the Attorney General,*
4 *within 30 days, which may consist of providing access to papers*
5 *or other documents.*

6 (B) *Providing access to the mobilehome facilities relevant to*
7 *the investigation.*

8 (C) *Providing written answers to questions from the Attorney*
9 *General.*

10 (D) *Providing oral testimony or depositions related to a*
11 *complaint.*

12 (2) *Failure to cooperate with the Attorney General in the course*
13 *of an investigation is a violation of this article.*

14 (e) *If after an investigation the Attorney General determines*
15 *that an agreement cannot be negotiated between the parties, the*
16 *Attorney General shall make a written determination on whether*
17 *a violation of any provision of the Mobilehome Residency Law*
18 *has occurred.*

19 (1) *If the Attorney General finds by a written determination that*
20 *a violation of the Mobilehome Residency Law has occurred, the*
21 *Attorney General shall deliver a written notice of violation to the*
22 *respondent who committed the violation by certified mail. The*
23 *notice of violation shall specify the violation, the corrective action*
24 *required, the time within which the corrective action shall be taken,*
25 *the penalties including fines, actions that will result if corrective*
26 *action is not taken within the specified time period, and the process*
27 *for contesting the determination, fines, penalties, and other actions*
28 *included in the notice of violation through an administrative*
29 *hearing. The Attorney General shall also deliver to the complainant*
30 *a copy of the notice of violation by certified mail.*

31 (2) *If the Attorney General finds by a written determination that*
32 *a violation of the Mobilehome Residency Law has not occurred,*
33 *the Attorney General shall deliver a written notice of nonviolation*
34 *to both the complainant and the respondent by certified mail. The*
35 *notice of nonviolation shall include the process for contesting the*
36 *determination through an administrative hearing.*

37 (f) *Corrective action shall take place within 30 business days*
38 *of the respondent's receipt of a notice of violation, except as*
39 *required otherwise by the Attorney General, unless the respondent*
40 *has submitted a timely request for an administrative hearing to*

1 *contest the notice of violation as required under subdivision (i).*
2 *If a respondent, which includes either a landlord or a tenant, fails*
3 *to take corrective action within the required time period and the*
4 *Attorney General has not received a timely request for an*
5 *administrative hearing, the Attorney General may impose a fine,*
6 *up to a maximum of two hundred fifty dollars (\$250) per violation,*
7 *per day, for each day that a violation remains uncorrected. The*
8 *Attorney General shall consider the severity and duration of the*
9 *violation and the violation's impact on other community residents*
10 *when determining the appropriate amount of a fine or the*
11 *appropriate penalty to impose on a respondent. If the respondent*
12 *shows upon timely application to the Attorney General that a good*
13 *faith effort to comply with the corrective action requirements of*
14 *the notice of violation has been made and that the corrective action*
15 *has not been completed because of mitigating factors beyond the*
16 *respondent's control, the Attorney General may delay the*
17 *imposition of a fine or penalty.*

18 *(g) The Attorney General may issue an order requiring the*
19 *respondent, or his or her assignee or agent, to cease and desist*
20 *from an unlawful practice and take affirmative actions that in the*
21 *judgment of the Attorney General will carry out the purposes of*
22 *this article. The affirmative actions may include, but are not limited*
23 *to, the following:*

24 *(1) Refunds of rent increases, improper fees, charges, and*
25 *assessments collected in violation of this article.*

26 *(2) Filing and utilization of documents that correct a statutory*
27 *or rule violation.*

28 *(3) Reasonable actions necessary to correct a statutory or rule*
29 *violation.*

30 *(h) The Attorney General may require parties, to ensure*
31 *compliance with the act from parties who have agreed to settle,*
32 *to memorialize any agreement in writing, furnish the Attorney*
33 *General with a signed copy of the agreement, and agree to*
34 *enforcement action in the event that one or both parties fails to*
35 *comply with the terms of the agreement.*

36 *(i) A complainant or respondent may request an administrative*
37 *hearing before an administrative law judge to contest any of the*
38 *following:*

1 (1) A notice of violation issued under paragraph (1) of
2 subdivision (e) or a notice of nonviolation issued under paragraph
3 (2) of subdivision (e).

4 (2) A fine or other penalty imposed under subdivision (f).

5 (3) An order to cease and desist or an order to take affirmative
6 actions under subdivision (g).

7 (j) The complainant or respondent shall request an
8 administrative hearing within 15 business days of receipt of a
9 notice of violation, notice of nonviolation, fine, other penalty,
10 order, or action. If an administrative hearing is not requested
11 within this time period, the notice of violation, notice of
12 nonviolation, fine, other penalty, order, or action constitutes a
13 final order of the Attorney General and is not subject to review by
14 any court or agency.

15 (k) If an administrative hearing is initiated, the respondent and
16 complainant shall each bear the cost of his or her own legal
17 expenses.

18 (l) The administrative law judge appointed shall do all of the
19 following:

20 (1) Hear and receive pertinent evidence and testimony.

21 (2) Decide whether the evidence supports the Attorney General's
22 finding by a preponderance of the evidence.

23 (3) Enter an appropriate order within 30 days after the close
24 of the hearing and immediately mail copies of the order to the
25 affected parties.

26 (m) The order of the administrative law judge constitutes the
27 final order of the Attorney General and may be appealed to the
28 superior court.

29 (n) When the Attorney General imposes a fine, refund, or other
30 penalty against a respondent, the respondent may not seek any
31 recovery or reimbursement of the fine, refund, or other penalty
32 from a complainant or from other mobilehome tenants.

33 (o) All receipts from the imposition of fines or other penalties
34 collected under this section other than those due to a complainant
35 shall be deposited into the Mobilehome Residency Law Mediation
36 Fund.

37 (p) This section is not exclusive and does not limit the right of
38 landlords or tenants to take legal action against another party.
39 Exhaustion of the administrative remedy provided in this chapter
40 is not required before a landlord or tenant may bring a legal

1 *action. This section does not apply to unlawful detainer actions*
2 *initiated prior to the filing and service of an unlawful detainer*
3 *court action; however, a tenant is not precluded from seeking relief*
4 *under this chapter if the complaint claims the notice of termination*
5 *violates the Mobilehome Residency Law prior to the filing and*
6 *service of an unlawful detainer action.*

7 *(q) Nothing in this section is intended to prevent a complainant*
8 *from taking civil action against another party at any time if the*
9 *incident or violation that resulted in the complaint is not adequately*
10 *resolved by the mediation process.*

11 *798.93. (a) The department shall annually register all*
12 *mobilehome communities. Each community shall be registered*
13 *separately. The department shall deliver by certified mail*
14 *registration notifications to all known mobilehome community*
15 *landlords. Registration information packets shall include both of*
16 *the following:*

17 *(1) Registration forms.*

18 *(2) Registration assessment information, including registration*
19 *due dates and late fees, and the collections procedures, liens, and*
20 *charging costs to tenants.*

21 *(b) To apply for registration, the landlord of a mobilehome*
22 *community shall file with the department an application for*
23 *registration on a form provided by the department and shall pay*
24 *a registration fee, pursuant to Section 798.31.5. The department*
25 *may require the submission of information necessary to assist in*
26 *identifying and locating a mobilehome community and other*
27 *information that may be useful to the state, which shall include,*
28 *at a minimum, all of the following:*

29 *(1) The name and address of any owner of the mobilehome*
30 *community.*

31 *(2) The name and address of the mobilehome community.*

32 *(3) The name and address of the landlord and manager of the*
33 *mobilehome community.*

34 *(4) The number of lots within the mobilehome community that*
35 *are subject to the Mobilehome Residency Law.*

36 *(5) The addresses of each mobilehome lot within the mobilehome*
37 *community that is subject to the Mobilehome Residency Law.*

38 *798.94. The department shall have the capability to compile,*
39 *update, and maintain the most accurate database possible of all*

1 *the mobilehome communities in the state, which shall include all*
2 *of the information collected under Section 798.93.*

3 798.95. *When requested by the Attorney General, the Office*
4 *of Administrative Law shall assign an administrative law judge to*
5 *conduct proceedings under this act.*

6 798.96. *The Attorney General shall have the authority to*
7 *promulgate any necessary procedural rules to administer the*
8 *mobilehome dispute resolution program.*

9 798.96.5. *The Attorney General may take the necessary steps*
10 *to ensure that this act is implemented on its effective date.*

11 798.97. *In order to provide general assistance to mobilehome*
12 *resident organizations, park owners, and landlords and tenants,*
13 *the department may use the mobilehome ombudsman to provide*
14 *technical assistance to resident organizations or persons in the*
15 *process of forming a resident organization pursuant to this chapter.*

16 798.98. *The Attorney General, director, or individuals acting*
17 *on behalf of the Attorney General or director are immune from*
18 *suit in any action, civil or criminal, based upon any disciplinary*
19 *actions or other official acts performed in the course of their duties*
20 *under this chapter, except their intentional or willful misconduct.*

21 798.99. *The Attorney General may investigate potential*
22 *violations that are discovered during the course of an existing*
23 *formal investigation, but for which the Attorney General has not*
24 *received a formal complaint.*

25 ~~SECTION 1. Section 1369.520 of the Civil Code is amended~~
26 ~~to read:~~

27 ~~1369.520. (a) An association or an owner or a member of a~~
28 ~~common interest development may not file an enforcement action~~
29 ~~in superior court unless the parties have endeavored to submit their~~
30 ~~dispute to alternative dispute resolution pursuant to this article.~~

31 ~~(b) This section applies only to an enforcement action that is~~
32 ~~solely for declaratory, injunctive, or writ relief, or for that relief~~
33 ~~in conjunction with a claim for monetary damages not in excess~~
34 ~~of the jurisdictional limits stated in Sections 116.220 and 116.221~~
35 ~~of the Code of Civil Procedure.~~

36 ~~(c) This section does not apply to a small claims action.~~

37 ~~(d) Except as otherwise provided by law, this section does not~~
38 ~~apply to an assessment dispute.~~

O